



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक ४४]

गुरुवार, जुलै २१, २०१६/आषाढ ३०, शके १९३८

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असाधारण क्रमांक ७२

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Land Revenue Code (Third Amendment) Bill, 2016 (L. A. Bill No. XXXI of 2016), introduced in the Maharashtra Legislative Assembly on the 21st July 2016, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,

Principal Secretary and R.L.A. to Government,
Law and Judiciary Department.

L. A. BILL No. XXXI OF 2016.

A BILL

further to amend the Maharashtra Land Revenue Code, 1966.

WHEREAS it is expedient further to amend the Maharashtra Land Revenue Code, 1966, for the purposes hereinafter appearing ; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :—

Mah.
XLI of
1966.

1. This Act may be called the Maharashtra Land Revenue Code (Third Amendment) Act, 2016.

Amendment
of section
182 of
Mah. XLI
of 1966.

2. In section 182 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as “ the said Code”), after sub-section (5), the following proviso shall be added, namely :—

Mah.
XLI of
1966.

“ Provided that, before right, title and interest of the defaulter in such land is put to sale by the Collector under sub-section (5), the Collector shall, by notice to the defaulter or his legal heir, ascertain his willingness to have the land restored back to him ; and if the defaulter or his legal heir gives his willingness to have such land restored back and pays, within such period, which shall not be less than ninety days, as may be specified by the Collector in the notice issued in this behalf, the following amounts, thereupon the said land shall be released from the attachment and restored to the defaulter or his legal heir, namely :—

(i) outstanding dues, payable to the Government on account of arrears of land revenue and interest leviable thereupon, as per the prevailing orders of the Government ;

(ii) where such defaulter is in unauthorized possession of such land even after the said land has been attached by the Collector, an annual lease rent, not exceeding one per cent. of the market value of the such land, as may be prescribed, for the period during which such defaulter is in unauthorized possession of such land and different annual lease rents may be prescribed for land in different areas and for different uses of land ; and

(iii) a penal amount, not exceeding fifty per cent. of the market value of such land for the current year, as may be prescribed, and different penal amounts may be prescribed for land in different areas and for different uses of land.

Explanation.—For the purpose of this sub-section, “the market value of the land” means the value of such land specified in the Annual Statement of Rates published under the provisions of the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995 or any other rules for the time being in force, in this regard for the relevant year, and where such Annual Statement of Rates is not prepared or available, it means the value of such land as determined by the Assistant Director of the Town Planning Department of the concerned District.”.

Amendment
of section 256
of Mah. XLI
of 1966.

3. In section 256 of the said Code,—

(a) to sub-section (2), the following provisos shall be added, namely :—

“ Provided that, where an order against which appeal is preferred involves payment of any amount to the Government, the execution of such order shall not be stayed unless the appellant deposits twenty-five per cent. of such amount payable to the Government under the order impunged :

Provided further that, in exceptional cases, the appellate authority may, after recording the reasons in writing therefor, suitably reduce such amount of deposit :

Provided also that, the amount to be deposited by the appellant as specified above shall be adjusted against the amount found payable to the Government under the final orders passed in appeal and in case the amount finally found payable to the Government is less than the amount deposited by the appellant, the excess amount shall be refunded to the Appellant without any interest.” ;

(b) to sub-section (3), the following provisos shall be added, namely :—

“ Provided that, where an order against which application for revision or review is filed involves payment of any amount to the Government, execution of such order shall not be stayed unless the applicant deposits twenty five per cent. of such amount payable to the Government under the order impugned :

Provided further that, in exceptional cases, the authority exercising the powers of revision or review may, after recording the reasons in writing therefor, suitably reduce such amount of deposit :

Provided also that, the amount deposited by the applicant as aforesaid shall be adjusted against the amount found payable to the Government under the final orders passed in revision or review proceedings and in case the amount finally found payable to the Government is less than the amount deposited by the applicant, the excess amount shall be refunded to the applicant without any interest :

Provided also that, the provisions contained in the above provisos shall not be applicable in case the authority exercises the powers of revision or review of any order *suo motu*.”.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 182 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), provides for the power of the Collector to attach land of the defaulter and to take it under management, if it is inexpedient for him to adopt any of the other processes specified for recovery of arrears of land revenue under sections 176 to 181 of the said Code.

Sub-section (4) of the said section 182, provides that the land so attached shall be released from attachment and restored to the defaulter on his making an application to the Collector for that purpose at any time within twelve years from the date of attachment, if at the time that such application is made, it appears that the arrear has been liquidated ; or if the defaulter is willing to pay the balance, if any, still due from him, and shall do so within such period as the Collector may specify in that behalf.

Sub-section (5) of the said section 182 provides that, if no application be made for the restoration of the land within twelve years, or if, after such application has been made, the defaulter fails to pay the balance, if any, still due from him within the period specified by the Collector in this behalf, the Collector may sell the right, title and interest of the defaulter in the land without prejudice to the encumbrances created prior to the attachment of the land ; and shall make over the sale proceeds to the defaulter after deducting therefrom the sum due to the State Government and expenses of the sale.

In order to give the concerned land holder one last opportunity to claim back his attached land before it is sold for recovery of the Government dues, it is considered expedient to amend the said section 182 suitably, so as to provide an option to such land holder to get back his land on payment of the outstanding amount along with interest as per the prevailing orders of the Government and the penal amount prescribed therefor. Such amendment will give solace to hundreds of land holders whose lands were attached in the past for non-payment of arrears of land revenue.

2. The said Code also contains various provisions regarding levy of land revenue, conversion tax, fees, penalty, etc. As per said provisions, various orders are passed by different revenue authorities in respect of matters pertaining to assessment or payment of land revenue, conversion tax, fees, penalty, etc. The persons aggrieved by such orders prefer appeals, revision or review applications before the appellate or revisional or review authorities who while passing interim orders often grant stay to the recovery of such amounts due to the Government. In cases where timely decisions are not taken regarding vacating such stay orders and also if matters are not decided quickly, such amounts due to the Government get stuck for long duration. It is noticed that, on various occasions such appeals, revision or review applications are filed with a view to avoiding or delaying the payment due to the Government as per the orders of the revenue authorities.

It is, therefore, considered expedient to amend section 256 of the said Code, suitably, to provide that where an order against which appeal or application for revision or review is filed involves payment of any amount to the Government, execution of such order shall not be stayed unless the appellant or applicant deposits twenty-five per cent. of such amount payable to the Government under the impugned order, which may be adjusted on passing of final orders.

3. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 19th July 2016.

CHANDRAKANT (DADA) PATIL,

Minister for Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 2.—Under this clause, which seeks to amend section 182 of the Maharashtra Land Revenue Code, 1966 in the proposed proviso,—

(a) under sub-clause (ii) thereof, power is taken to the State Government to prescribe, by rules, the amount of annual lease rent, not exceeding one per cent. of the market value of land, payable by the defaulter who is in unauthorized possession of the land attached under section 182 of the said Code and to prescribe, by rules, different annual lease rents for lands in different areas and for different uses of land ;

(b) under sub-clause (iii) thereof, power is taken to the State Government to prescribe, by rules, the amount of penalty, not exceeding fifty per cent. of the market value of the land, payable by the defaulter who is willing to have the land, attached under the section 182 of the said Code, restored back and to prescribe, by rules, different penal amounts for lands in different areas and for different uses of land.

2. The above-mentioned proposals for delegation of legislative power are of normal character.